



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/138,920	08/24/1998	CHRISTOPHER L. AUTEN		4701

7590

04/23/2002

CHARLES W CALKINS  
KILPATRICK STOCKTON  
1001 WEST FOURTH STREET  
WINSTON-SALEM, NC 27101

EXAMINER

DAVIS, TEMICA M

ART UNIT

PAPER NUMBER

2685

DATE MAILED: 04/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.  
09/138,920

Applicant(s)

Auten et al.

Examiner  
Temica M. Davis

Art Unit  
2685



— The MAILING DATE of this communication appears on the cover sheet with the correspondence address —

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1) ☒ Responsive to communication(s) filed on Apr 17, 2002

2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

## Disposition of Claims

4) ☒ Claim(s) 8-11, 13-18, and 20 is/are pending in the application

4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration

5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.

6) ☒ Claim(s) 8-11, 13-18, and 20 is/are rejected.

7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.

8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirements

## Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

a) ☐ All b) ☐ Some\* c) ☐ None of:

1. ☐ Certified copies of the priority documents have been received.

2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_

3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

19) ☐ Notice of Informal Patent Application (PTO-152)

17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_

20) ☐ Other:

Art Unit: 2685

## **DETAILED ACTION**

### ***Reassignment Affecting Application Location***

1. The art unit location of your application in the PTO has changed. To aid in correlating any papers for this application, all further correspondence regarding this application should be directed to art unit 2685.

### ***Double Patenting***

2. Claims 14 and 16 are objected to under 37 CFR 1.75 as being a substantial duplicate of claims 13 and 15, respectively. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

Art Unit: 2685

4. Claims 8-10, 13-16 and 18 are rejected under 35 U.S.C. 102(e) as being anticipated by Soon, U.S. Patent No. 5,901,206.

Regarding claim 8, Soon discloses a power source unit comprising a housing (col. 3, lines 15-18), a lens located in the wall of the housing (col. 3, lines 23-26; figure 2), a source of illumination located within the housing and positioned to project a beam of light through the lens to inherently illuminate an area surrounding the device with sufficient candlepower to enable a user to view the area as evidenced by the fact that it is a flashlight(col. 3, lines 19-36), and a power source for the source of illumination in electrical communication with the source of illumination (col. 3, lines 40-47; figure 3).

Regarding claim 9, Soon discloses the communications device of claim 8, and further discloses a switch in electrical communication with the power source of the source of illumination (col. 3, lines 45-47; figure 3).

Regarding claim 10, Soon discloses the communication device of claim 8, and further discloses wherein the source of illumination is an incandescent light bulb (col. 3, lines 40-48; figure 3).

Regarding claim 13, Soon discloses a cordless telephone comprising the power source of claim 8 (figure 1).

Regarding claim 14, Soon discloses a cordless telephone comprising the power source of claim 8 (figure 1).

Regarding claim 15, Soon discloses a cellular telephone comprising the power source of claim 8 (figure 1).

Art Unit: 2685

Regarding claim 16, Soon discloses a cellular telephone comprising the power source of claim 8 (figure 1).

Regarding claim 17, Soon discloses the power source unit of claim 8, and further discloses the power source unit being comprised of a power tool since the phone contains power elements (Soon, figure 3).

Regarding claim 18, Soon discloses a radio (portable/mobile phone) comprising the power source unit of claim 8 (figure 1).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soon, U.S. Patent No. 5,901,206 and Korycan, U.S. Patent No. 5,950,139.

Regarding claim 11, Soon discloses the communications device/power source unit as described in claim 8.

Soon, however, fails to specifically disclose the source of illumination being an LED.

However, LED's are very known in the art for being used as a source of illumination as evidenced by Korycan (col. 2, lines 23-45; figure 1).

Art Unit: 2685

At the time of invention, it would have been obvious to a person of ordinary skill in the art to modify Soon with the teachings of Korycan as it would have been a design preference based on the desired outcome of the system since Korycan further teaches that other sources of light can be used in the system as well in order to produce the same outcome (Korycan, col. 2, lines 40-45).

7. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Soon.

Regarding claim 20, Soon discloses the communications device of claim 8 as described above.

Soon however, fails to specifically disclose wherein the flashlight is capable of generating from 0.1 to 30 lumens.

The examiner contends however, that since Soon teaches a communication device capable of being used as a flashlight which is inherently used for lighting the user's surrounding area, that the total amount of lumens used for the light is a design preference as long as the amount is sufficient to light a particular area and therefore, would have been obvious at the time of invention for the purpose of being able to see in poorly lit areas.

#### ***Response to Arguments***

8. Applicant's arguments filed April 17, 2002 have been fully considered but they are not persuasive.

Art Unit: 2685

Applicant argues that Soon fails to teach of a power pack used on a portable telephone wherein the illumination is originating from the power pack attached to the phone and not originating from the telephone itself. Instead, Soon teaches a flashlight enclosed in the housing of the phone wherein the flashlight is not in a separable power pack.

The examiner contends, however, that the present invention, as claimed, does not require a separable flashlight unit from the telephone. As presently claimed, the limitations require a power source unit which comprises a housing, a lens, a source of illumination and a power source in electrical communication with the source of illumination (claim 8), in which these limitations are met by Soon as described above.

Applicant also argues that Korycan does not disclose LED's for use in lighting surroundings.

However, Korycan was only used to show that LED's are very well known in the art as light sources. Although Korycan does not specifically disclose the "brightness" of the LED's, it is very well known in the art that all types of light sources can have variable brightness based on a desired illumination of the user or designer of the system which may implement the light sources.

Therefore, based on the above arguments, the claims stand rejected.

### *Conclusion*

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Temica M. Davis whose telephone number is (703) 306-5837. The

Art Unit: 2685

examiner can normally be reached on Monday-Thursday from 7:30 am to 5:00 pm. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Edward Urban, can be reached on (703) 305-4385.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to TC2600 Customer Service whose telephone number is (703)306-0377.

**Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks

Washington, D.C. 20231

**or faxed to:**

(703) 872-9314 (for any communications intended for entry).

*Hand-delivered responses should be brought to Crystal Park II, 2121*

*Crystal Drive, Arlington. VA., Sixth Floor (Receptionist).*



Temica M. Davis

April 19, 2002



EDWARD F. URBAN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600